

October 3, 2001

Michael Powell
Chairman,
Federal Communications Commission
445 12th Street., SW
Washington, DC 20554



Re: MM Docket No. 98-203
Written *Ex Parte* Presentation

Dear Mr. Chairman:

The purpose of this letter is to emphasize the extremely broad ruling which has been sought in this proceeding by sectors of the non-commercial broadcasting community.

Press reports suggest that non-commercial broadcasters seek authority to use ancillary and supplemental spectrum for highly delimited, mission-related activities. However, the relief they have sought is a blank check which would permit all manner of commercial activities quite unrelated to the mission of public broadcasting.

Throughout these proceedings, UCC, *et al.* have attempted to craft an outcome which permit public broadcasters "to increase revenues through new digital technologies." *Comments of UCC, et al.* (February 16, 1999), p. 16. For example, in their *Reply Comments*, UCC, *et al.* reluctantly agreed to support a definition that would permit public broadcasters to devote up to 50% of their digital capacity for remunerative activities such as subscription services. This would divert far more capacity than UCC, *et al.* would prefer; indeed, a far higher threshold would be justifiable.

However, this evidently is not enough for some public broadcasters, who appear to be seeking to eviscerate the Communications Act to obtain authority to devote a majority of their capacity to remunerative uses.

Similarly, while public broadcasters have recently insisted that they do not intend to use their spectrum for advertising and advertiser-supported services, the position they advance before the Commission is that they should be allowed unlimited authority to carry advertising on their ancillary and supplemental spectrum.

As UCC, *et al.* have shown in their pleadings, the law does not permit advertising on non-commercial stations. This is not open to compromise, and the Commission should not attempt to twist the law to permit such an ill-advised practice.

Sincerely,

Andrew Jay Schwartzman
President and CEO

cc: All Commissioners